

**Item 4.****Development Application: 82 Wentworth Park Road, Glebe - D/2023/21**

File No.: D/2023/21

**Summary**

<b>Date of Submission:</b>	24 January 2023  Amended plans submitted 11 April, 11 August, 10 November 2023. Clause 4.6 requests submitted 1 December 2023.
<b>Applicant:</b>	New South Wales Land and Housing Corporation
<b>Architect:</b>	SJB
<b>Developer:</b>	New South Wales Land and Housing Corporation
<b>Owner:</b>	New South Wales Land and Housing Corporation
<b>Planning Consultant:</b>	FPD Planning
<b>Heritage Consultant:</b>	NBRS and Partners
<b>DAPRS:</b>	7 March 2023
<b>Cost of Works:</b>	\$21,723,996
<b>Zoning:</b>	The proposal is permissible within the R1 General Residential zone.
<b>Proposal Summary:</b>	<p>The development application seeks consent for demolition of existing buildings, tree removal, and construction of a four storey residential flat building for 43 affordable housing dwellings for use as social housing.</p> <p>The development is a Crown development application with the land owner being the NSW Land and Housing Corporation.</p> <p>The application was presented to the City's Design Advisory Panel Residential Subcommittee (DAPRS) who supported the increase in social housing as well as the proposed height and the materiality. A number of</p>

recommendations have been addressed via amended plans.

The proposed development is compliant with the permitted FSR control of 2.25:1 under the Sydney LEP 2012 of 1.75:1 and the Housing SEPP 2021 of an additional 0.5:1.

The proposal exceeds the 12m height of building development standard by 2.2m (18%). The applicant has submitted a clause 4.6 written request seeking to vary the development standard, and the clause 4.6 Request is supported.

The applicant has submitted three clause 4.6 written requests seeking to vary development standards of the State Environmental Planning Policy (Housing) 2021 relating to landscaped area, solar access and parking spaces. These clause 4.6 requests are supported.

The proposal is generally compliant with SEPP 65 and the Apartment Design Guide (ADG). Overall, the proposal provides acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.

The proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that demonstrates design excellence.

The development application was publicly notified on two occasions. The first notification related to the original proposal and was notified for 28 days between 14 February and 15 March 2023. 27 unique submissions were received, and 349 pro-forma submissions were received.

The second notification related to the amended proposal and was notified for 14 days between 21 August and 5 September 2023. Two submissions were received.

The development application is referred to the Local Planning Panel for determination as:

(a) the proposal is a type of development where State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development applies;

(b) the application proposes a departure from a development standard greater than 10 per cent; and

(c) greater than 25 submissions have been received.

As the application is a Crown development application, the draft conditions were provided to Land and Housing

Corporation, who have agreed to the recommended conditions on 28 November 2023.

**Summary Recommendation:** The development application is recommended for deferred commencement approval.

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP 65
- (v) Apartment Design Guide
- (vi) SEPP (Transport and Infrastructure) 2021
- (vii) SEPP (Biodiversity and Conservation) 2021

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Clause 4.6 Variation Request - Landscaped Area
- E. Clause 4.6 Variation Request - Solar Access
- F. Clause 4.6 Variation Request - Parking Spaces
- G. View Impact Assessment

## Recommendation

It is resolved that:

- (A) the variation requested to Height of Buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the variation requested to Landscaped Area development standard under subsection 18(2)(b) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (C) the variation requested to Solar Access development standard under subsection 18(2)(e) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (D) the variation requested to Parking Spaces development standard under subsection 18(2) (f) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (E) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2023/21 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the R1 General Residential zone pursuant to the Sydney LEP 2012.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height of Buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Height of Buildings development standard.
- (C) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Landscaped Area development standard is unreasonable or unnecessary

and that there are sufficient planning grounds to justify contravening clause 18(2)(b) of State Environmental Planning Policy (Housing) 2021; and

- (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Landscaped Area development standard.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Solar Access development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(e) of State Environmental Planning Policy (Housing) 2021; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Solar Access development standard.
- (E) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Parking Spaces development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(f) of State Environmental Planning Policy (Housing) 2021; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Parking Spaces development standard.
- (F) The development exhibits design excellence under Clause 6.21C of Sydney LEP 2012.
- (G) The development meets the objectives of the Apartment Design Guide and is consistent with the design quality principles under State Environmental Planning Policy No 65 - Design Quality of Residential Apartments.
- (H) The development generally meets the objectives and provisions of the Housing SEPP 2021.
- (I) The development is generally consistent with the objectives of Sydney LEP 2012 and Sydney Development Control Plan 2012.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lots 1-4 DP 82924, known as 82 Wentworth Park Road, Glebe. It is irregular in shape with an area of approximately 1,633sqm. It has a primary street frontage of approximately 48m to Wentworth Park Road and has a partial side frontage to Cardigan Street and a rear street frontage to Bellevue Street. The site is located approximately 52m from the intersection of Wentworth Park Road and Bridge Road.
2. The site contains 17 semi-detached townhouses of two and three storeys. The site has a central driveway and a hardstand parking area at the rear.
3. The site is relatively flat however Bellevue Street is elevated above the site by approximately 3.5m to 10m. There is a sandstone retaining wall for the full length of the rear boundary.
4. There are 11 trees on the site and 13 trees located adjacent to the site on Council land or neighbouring land.
5. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial.
6. On the opposite side of Wentworth Park Road is Wentworth Park and associated sports fields.
7. On the opposite side of Bellevue Street are residential terraces and Thomas Portley Reserve.
8. To the north-west is the light rail, which is elevated above ground level, and a mixed-use building on the corner of Wentworth Park Road and Bridge Road.
9. To the south-east are residential terraces on the opposite side of Cardigan Street, and a mixed-use development adjoining the site at 1A Cardigan Street.
10. The site is located within the Lyndhurst heritage conservation area (C31). The site is identified as a neutral building.
11. The site is located within the St Phillips locality and is identified as being subject to flooding.
12. A site visit was carried out on 22 February and 17 July 2023. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Wentworth Park Road and Cardigan Street



Figure 3: Site viewed from Wentworth Park Road



Figure 4: Site viewed from Wentworth Park Road





Figure 5: The rear of the site viewed from the existing hardstand area



Figure 6: The rear of the site looking north



**Figure 7:** The rear of the site looking south



**Figure 8:** Site viewed Cardigan Street



**Figure 9:** Looking south-west along Cardigan Street



**Figure 10:** Parking area of neighbouring mixed use development at 1A Cardigan Street



**Figure 11:** Residential dwellings on the opposite side of Cardigan Street



**Figure 12:** Light rail to the north of the site



Figure 14: Site viewed from Bellevue Street



Figure 14: Site viewed Bellevue Street



**Figure 15:** Residential terraces located on the opposite side of Bellevue Street

## History Relevant to the Development Application

### Development Applications

13. The existing building was constructed in 1986 for the NSW Housing Commission.
14. There is no recent development application history relating to the site.

### Amendments

15. Following preliminary and detailed assessments of the proposed development by Council Officers, requests for additional information and amendments were sent to the applicant on 17 February, 21 June, and 16 October 2023.
16. The applicant responded to the requests on 11 April, 11 August, 10 November and 1 December 2023.
17. Additional information provided by the applicant included:
  - (a) amended plans;
  - (b) additional information relating to tree removal and options considered to retain trees on site;
  - (c) information relating to the retaining wall at the rear;

- (d) public art plans;
  - (e) Remedial Action Plan;
  - (f) Letter of Interim advice from a site auditor;
  - (g) Revised Flood Report;
  - (h) stormwater information;
  - (i) View Loss Impact Assessment;
  - (j) amended Clause 4.6 request for Height development standard; and
  - (k) Clause 4.6 requests for exceptions to the Landscaped Area, Solar Access and Parking Spaces development standards.
18. The amendments to the plans included:
- (a) provision of clerestory skylights to improve solar access and cross ventilation to upper level apartments;
  - (b) provision of a 2 metre setback from the rear boundary;
  - (c) additional privacy measures;
  - (d) amend ramp to waste room; and
  - (e) layout changes of three ground floor apartments to better address the street

### **Proposed Development**

19. The development application, as amended, seeks consent for demolition of existing buildings, tree removal, and construction of a four storey residential flat building for 43 affordable housing dwellings for use as social housing.
20. The land owner is NSW Land and Housing Corporation and all dwellings are proposed to be delivered as social housing.
21. In detail, the application seeks consent for the following:
- (a) Basement level
    - (i) Switch room
    - (ii) Cold Water pump
    - (iii) Comms room
    - (iv) Pump room
  - (b) Ground floor level
    - (i) Building lobby

- (ii) 10 apartments (6 one-bedroom and 4 studios)
  - (iii) Two communal open space areas
  - (iv) Waste room
  - (v) Bike storage room
  - (vi) Substation
  - (c) Level 1
    - (i) 11 apartments (4 two-bedroom and 7 one-bedroom)
  - (d) Levels 2 and 3
    - (i) 11 apartments per level (3 two-bedroom and 7 one-bedroom)
  - (e) Roof level
    - (i) Green roof
  - (f) Tree removal of 11 trees from the site and planting of new trees
22. Plans and elevations of the proposed development are provided below.



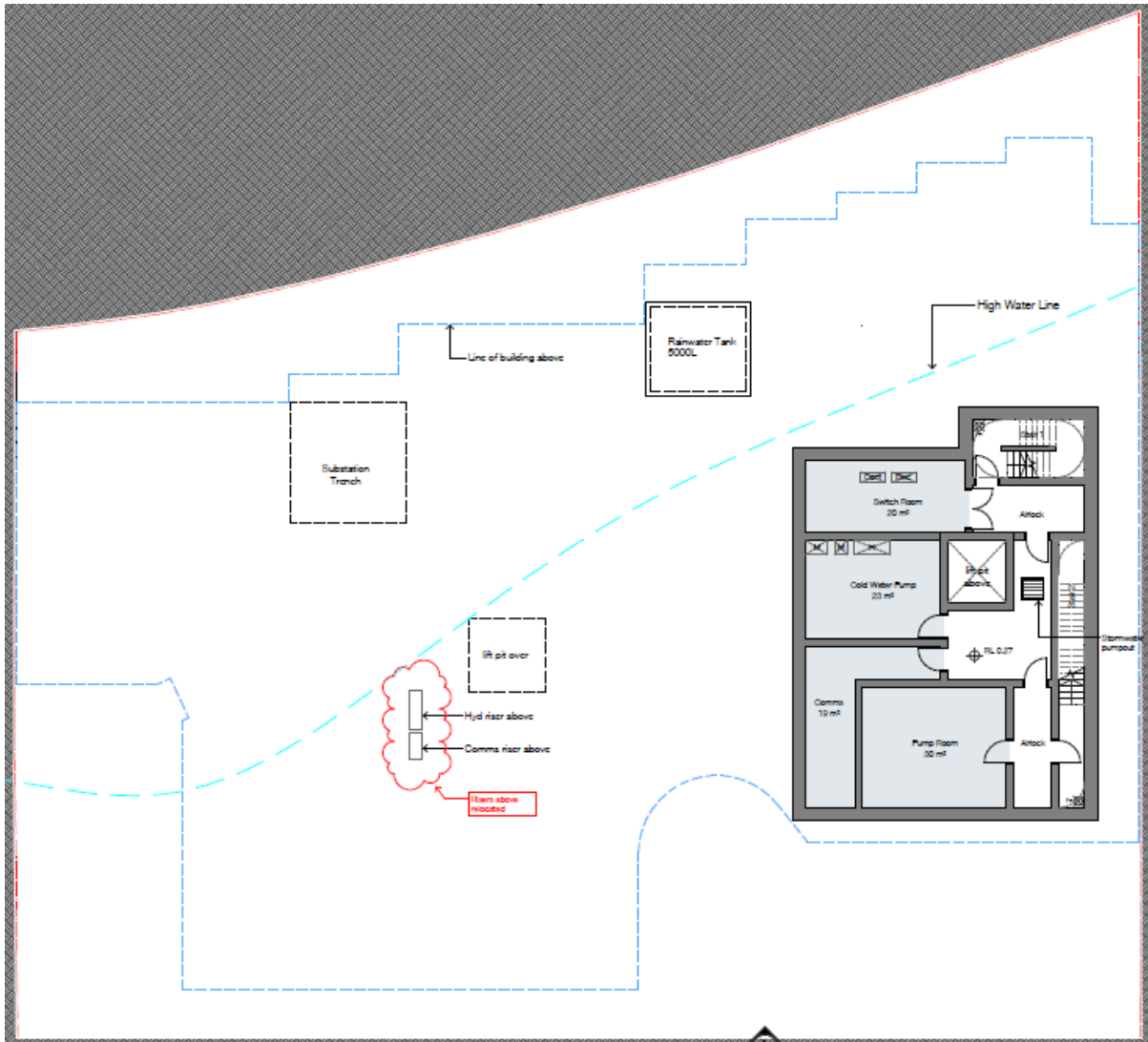


Figure 16: Proposed basement floorplan

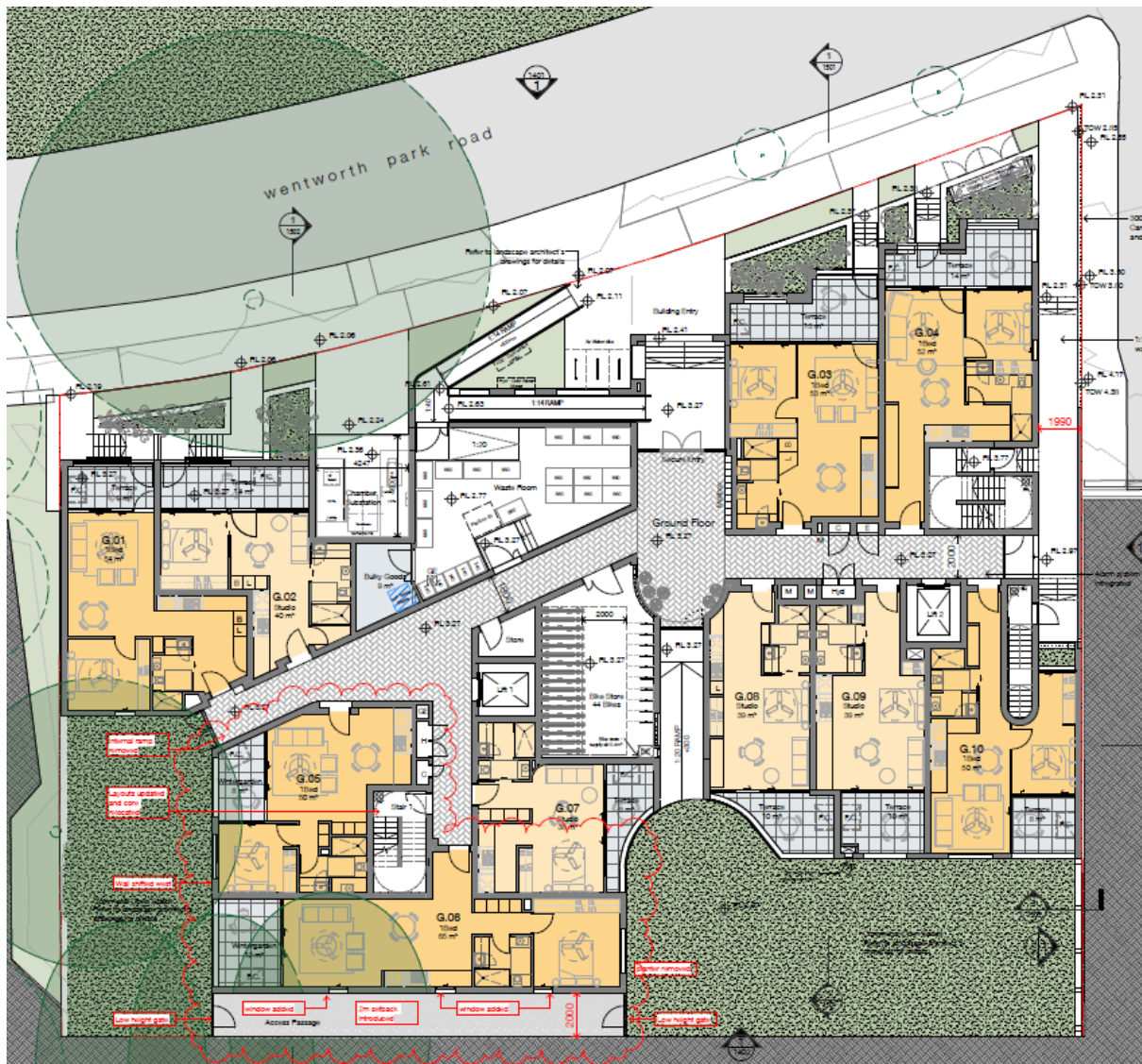


Figure 17: Proposed ground floor plan

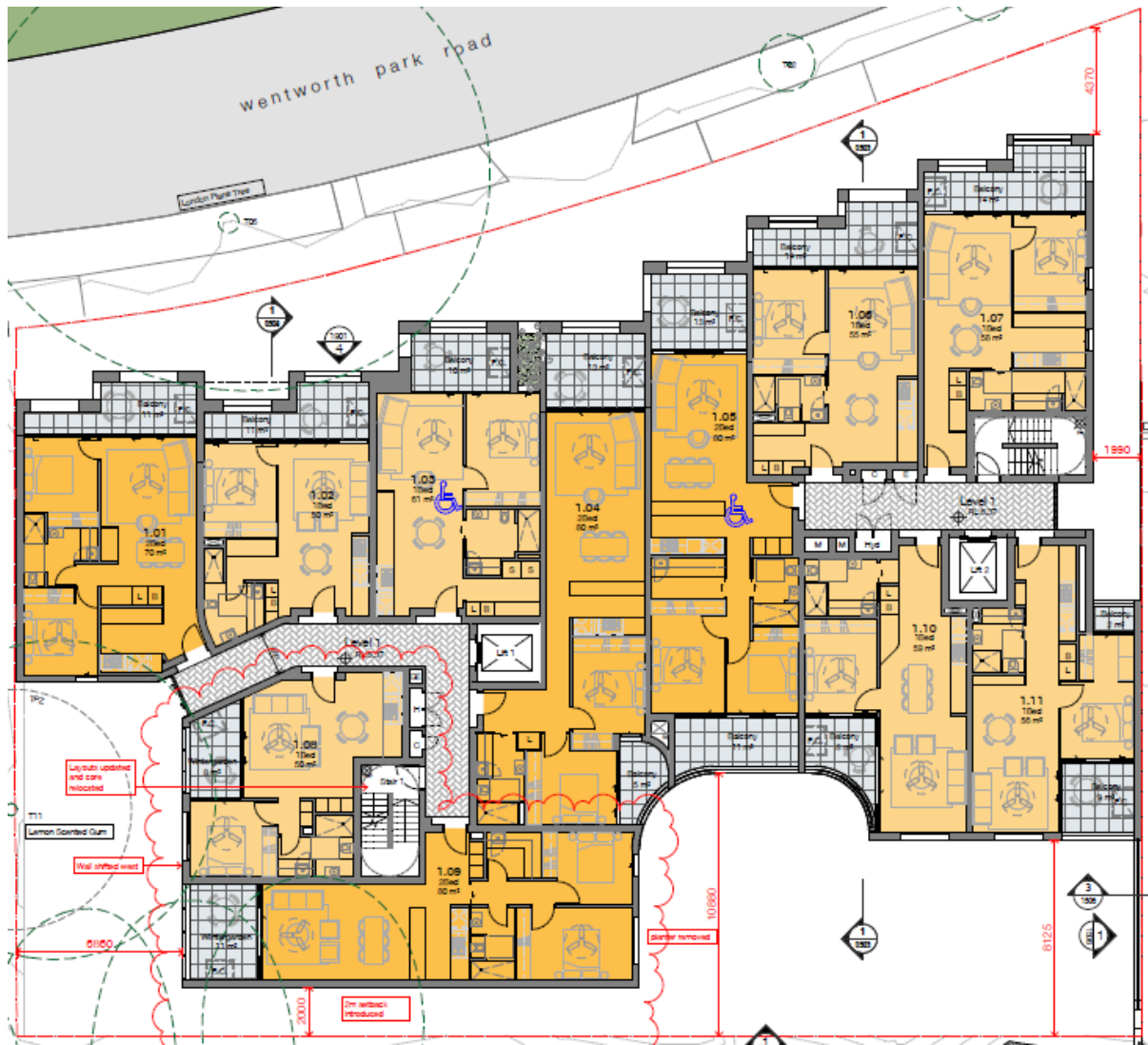


Figure 18: Proposed first floor plan

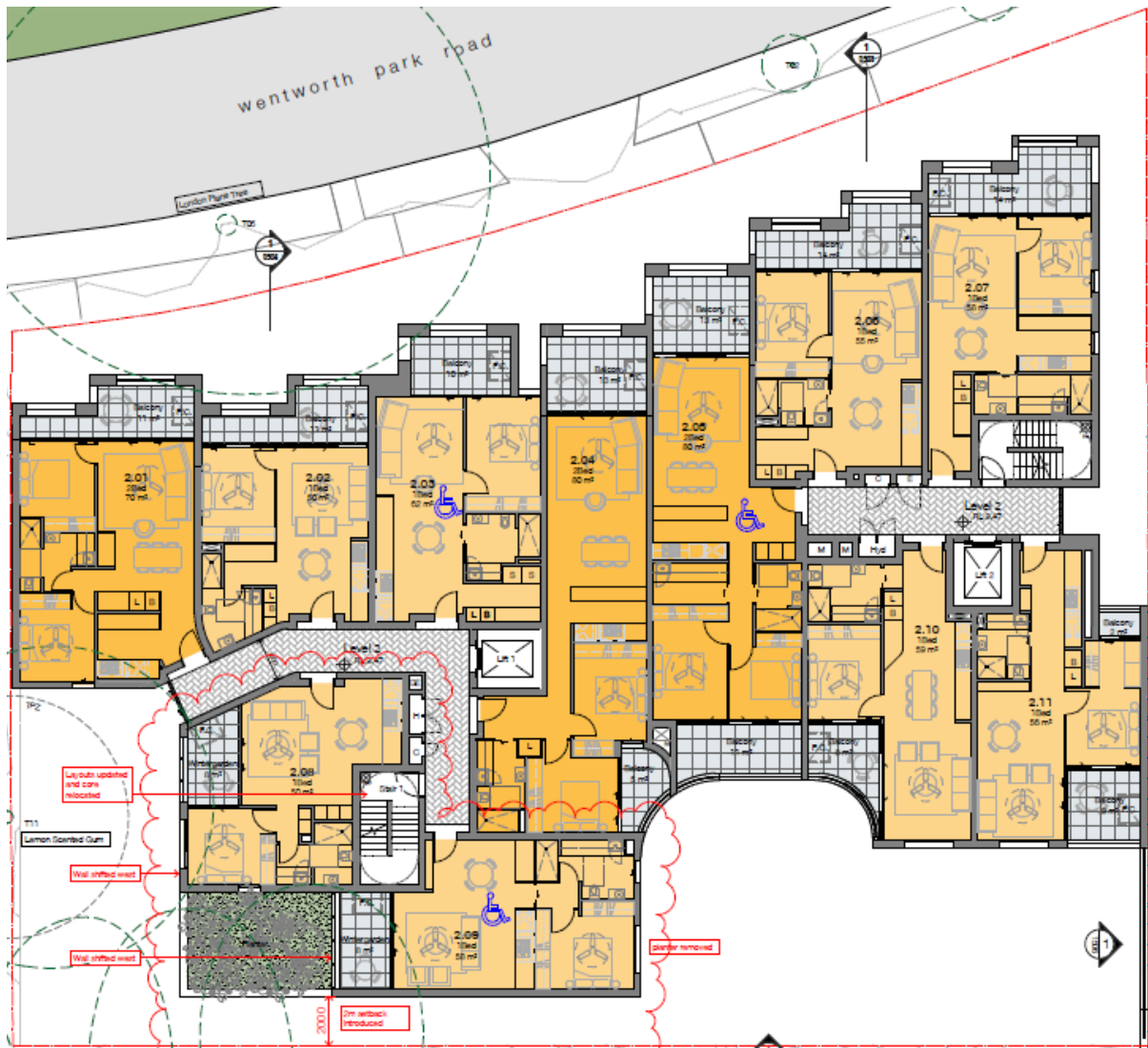


Figure 19: Proposed second floor plan

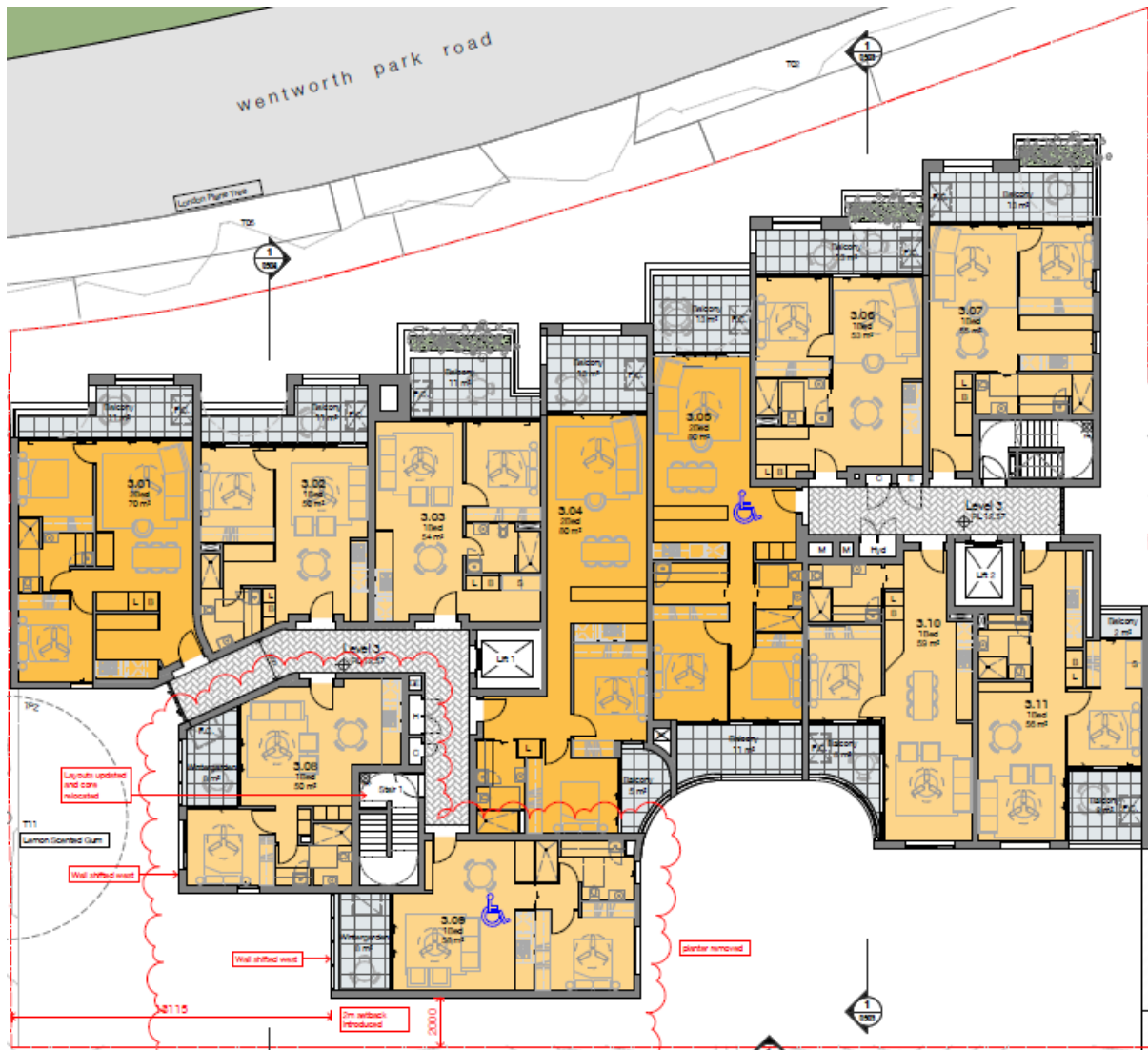


Figure 20: Proposed third floor plan

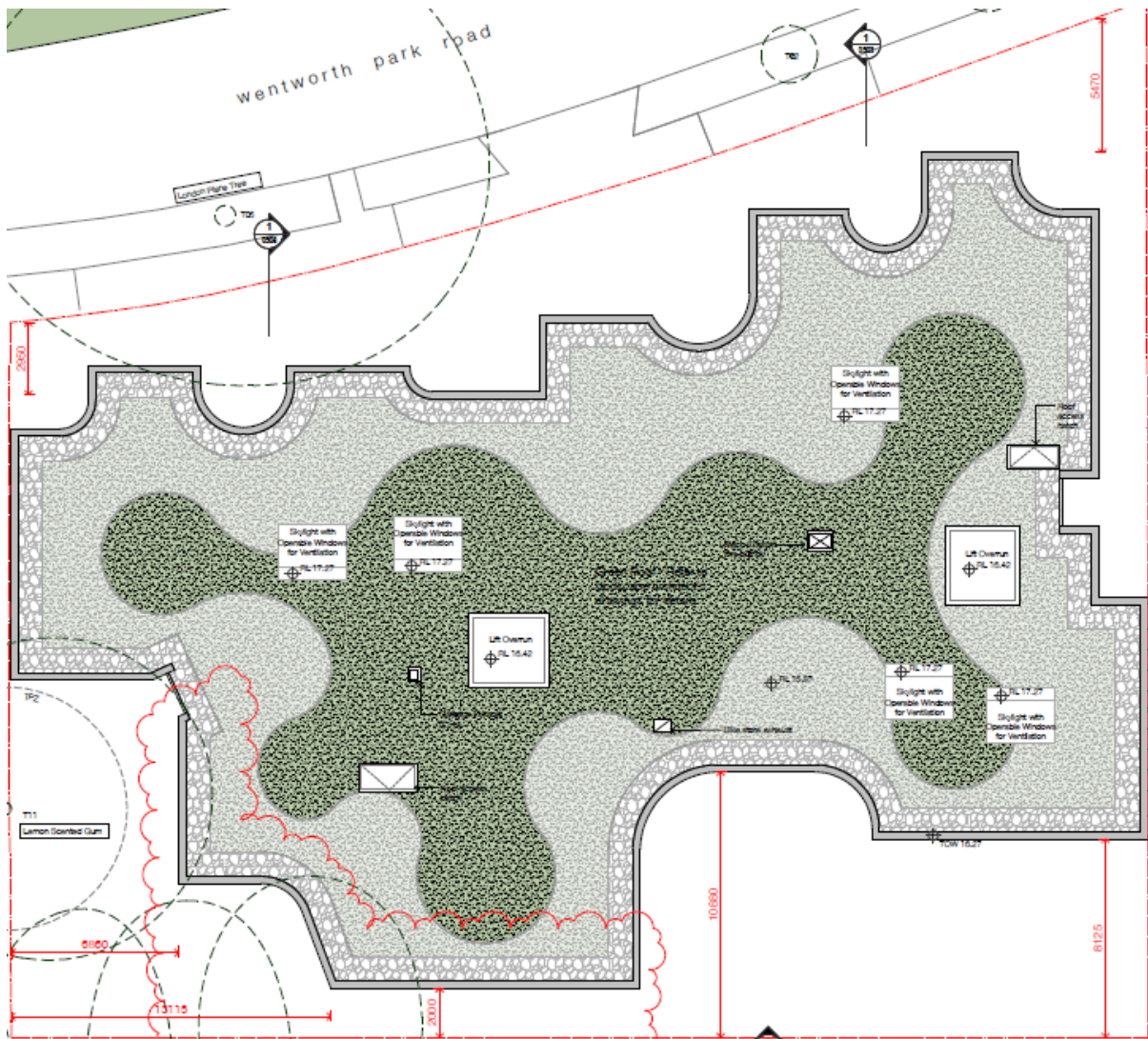


Figure 21: Proposed roof plan



Figure 22: Wentworth Park Road (East) elevation

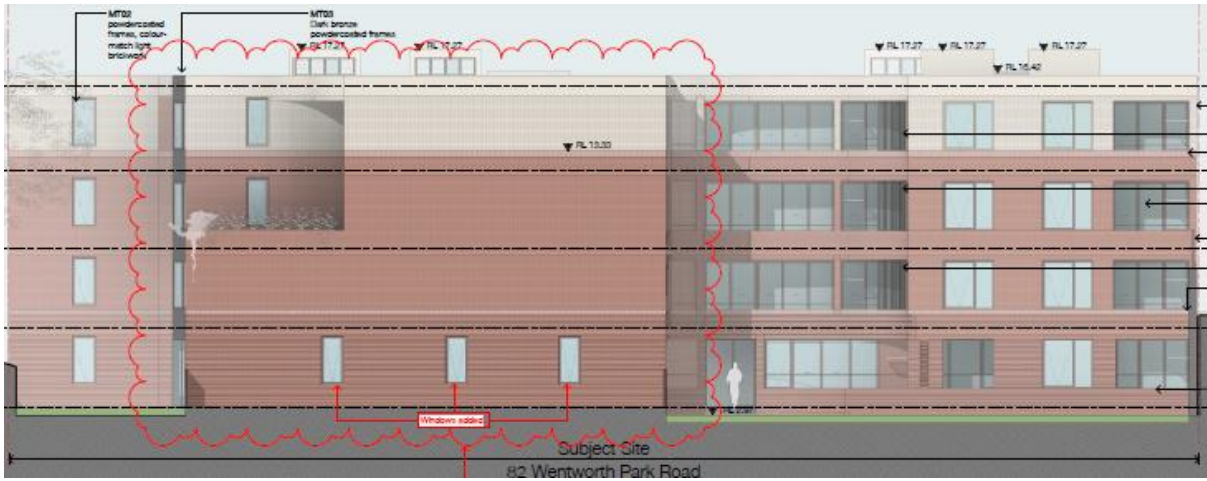


Figure 23: West elevation

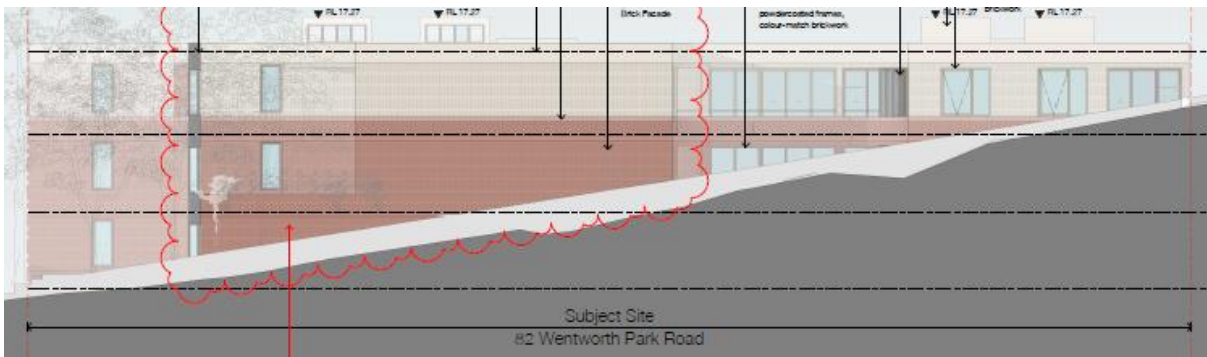


Figure 24: Bellevue Street (West) elevation



Figure 25: Cardigan Street (South) elevation

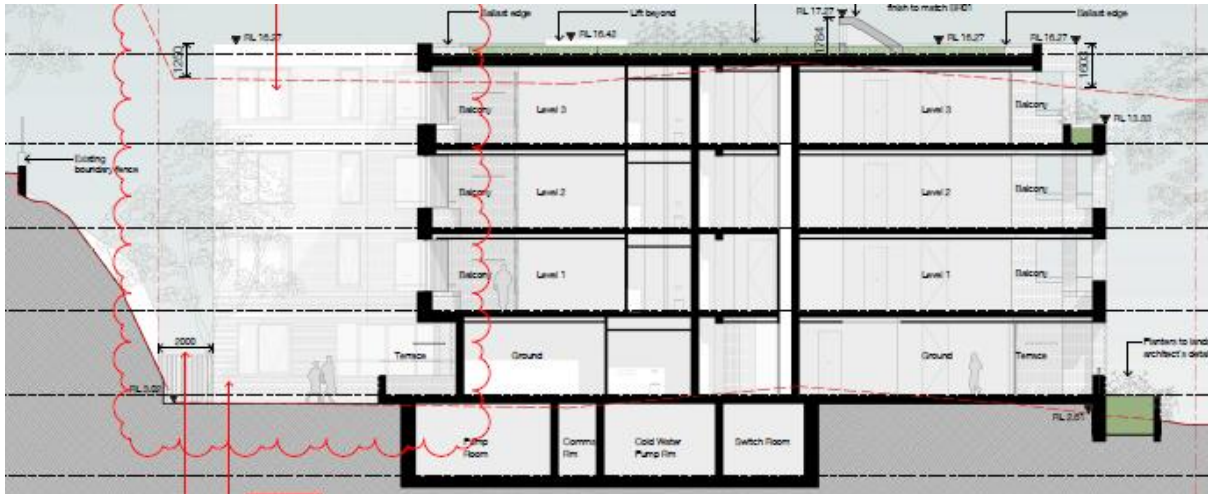


Figure 26: Section viewed from the south



Figure 27: Section viewed from the north

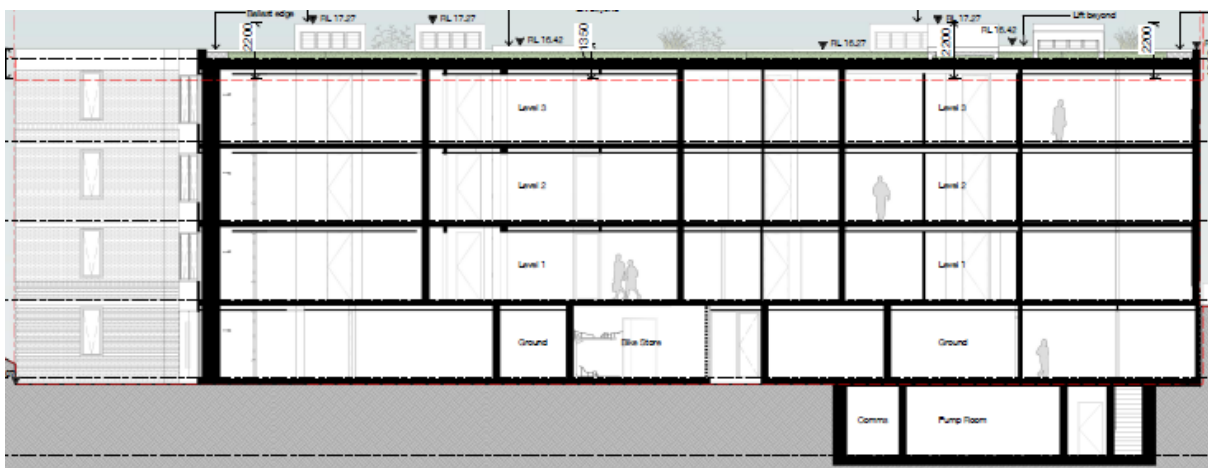


Figure 28: Section viewed from the west





Figure 29: Photomontage viewed from the corner of Wentworth Park Road and Cardigan Street



Figure 30: Photomontage viewed from the northern end of Bellevue Street

## Assessment

23. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

## Crown Development Applications

24. This application has been made by or on behalf of NSW Land and Housing Corporation (LAHC) and is therefore to be assessed as a Crown development application.
25. Pursuant to section 4.33(1) of the EP&A Act, a consent authority (other than the Minister) must not:
  - (a) refuse its consent to a Crown development application, except with the approval of the NSW Minister for Planning and Public Spaces; or
  - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant, or the NSW Minister for Planning and Public Spaces.
26. Draft conditions of consent were provided to the applicant on 20 November 2023.
27. LAHC provided their initial response on 21 November 2023 and requested the following amendments:
  - (a) Deferred commencement conditions 1 (stormwater concept design) and 2 (retaining wall engineer report) to be prior to certification rather than deferred commencement
  - (b) Delete Waste Management condition
  - (c) Delete BASIX Certificate condition
  - (d) Delete Ventilation Security and Weather Protection condition
  - (e) Amend consolidation plan condition
  - (f) Amend Public Domain Damage Bond for Retaining wall condition
  - (g) Amend Street Tree Pruning conditions
  - (h) Delete Restriction on Residential Development condition
  - (i) Delete Number of Adults per room condition
  - (j) Amend multiple conditions to refer to 'relevant' certification
  - (k) Amend multiple Transport for NSW conditions
28. Council agreed to the amendments with the exception of:
  - (a) Deferred commencement conditions 1 and 2 were to remain as deferred commencement conditions
  - (b) Condition 15 (BASIX Certificate) to remain
  - (c) Condition 26 (Consolidation Plan) to be remain and requiring satisfaction prior to demolition

- (d) Condition 39 (Public Domain Damage Bond For Retaining Wall) updated in part to provide more information on how the bond will be calculated, however market rates are not included as these have not yet been sourced by the City.
29. LAHC provided a response on 28 November 2023 and confirmed acceptance of the draft conditions. The agreed conditions are included as Attachment A.

## **State Environmental Planning Policies**

### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4**

#### **Remediation of Land**

- 32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
- 33. Site investigations have identified lead, polycyclic aromatic hydrocarbon (PAH), and asbestos-contaminated fill as present on the site:
- 34. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice by a Site Auditor has been submitted with the development application.
- 35. The RAP proposes to cap and contain the contaminants through on-site burial and capping, with off-site disposal to be used where required. The interim advice confirms the above approach is practical, feasible and meets EPA guidance, provided the requirement to manage capped contamination by an Environmental Management Plan (EMP).
- 36. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
- 37. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

#### **State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development**

- 38. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
- 39. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
- 40. A design verification statement and SEPP 65 design report prepared by Adam Haddow (Registered Architect NSW, No. 7188) of SJB was submitted with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29(2) of the Environmental Planning and Assessment Regulation 2021.

41. An assessment of the proposal against the design quality is provided as follows:
- (a) Principle 1: Context and Neighbourhood Character
    - (i) The proposal is located along the southern boundary of Wentworth Park, and on the fringe of a railway embankment running east west. The site is generally flat, with a steep sandstone rock shelf to the rear boundary.
    - (ii) The surrounding residential context are predominantly low scale Victorian and Federation terraces and semi-detached housing or converted warehouse apartments.
    - (iii) The existing building is currently occupied as social housing, and generally has a diverse social mix within the vicinity.
    - (iv) The materiality of the proposal is informed by the original building on the site - masonry dwellings built around the 70s and 80s in a townhouse form.
    - (v) The scale of the proposal is in keeping with the existing urban streetscape of the heritage conservation area and the scale of the adjacent park and infrastructure.
  - (b) Principle 2: Built Form and Scale
    - (i) The upper 4th storey is setback and is read as a recessive storey finished in lighter masonry.
    - (ii) To reduce bulk, the design of the building has a staggered setback from Wentworth Park Road, and alternating projecting and recessive bays to modulate the principal facade. Recessed balconies are designed to help break up the solidity of the buildings massing.
    - (iii) The building has prioritized the majority of the apartments with a North facing orientation, ensuring the occupants can take advantage of the public domain, views and vistas. The front setback along Wentworth Park Road, references the existing building line, to ensure there is a buffer and relief at street level.
  - (c) Principle 3: Density
    - (i) The proposal has a floor space ratio of 1.85:1, responsive to the control of 2.25:1. All apartments experience a high level of amenity, with both views and generous private open space.
    - (ii) The proposal is within a short 5min walking distance of Glebe Light Rail.
    - (iii) Bus stops along Harris St or Broadway are the primary public transport connections into the CBD with a number of frequent bus services, within a 15min walk.
    - (iv) Apartment mix:
      - (i) Studio Apartments 9.3%
      - (ii) 1 Bedroom Apartments 67.4%
      - (iii) 2 Bedroom Apartments 23.2%

- (d) Principle 4: Sustainability
- (i) 17% of the total site area allows for deep soil planting, enabling ground water recharge and vegetation
  - (ii) On-site rainwater detention and re-use
  - (iii) Natural ventilation to all corridors
  - (iv) Maximising direct sun to apartments while utilising overhangs to control summer heat gain
  - (v) Integration of ceiling fans for passive ventilation - cooling and heat distribution to living and bedrooms to minimise reliance on air conditioning systems
  - (vi) Priority for selection of materials that are locally produced, favouring longevity and minimising maintenance
  - (vii) Energy-efficient lighting and appliances
  - (viii) Water-efficient fixtures
  - (ix) Proximity to public transport and local shops
  - (x) The high proportion of soft landscaping to roof areas effectively minimises stormwater runoff. Excess stormwater is captured and used to water the ground level landscaping.
- (e) Principle 5: Landscape
- (i) The proposal incorporates landscaping at a number of levels. The public domain is enhanced by both hard and soft landscaping, extending the public domain into the site and providing a visual buffer between the building entry and Wentworth Park Road.
  - (ii) Communal open space is provided with landscaping and seating areas, that are well shaded by tree canopies and umbrellas.
  - (iii) Raised planters along Wentworth Park Road provide a buffer between the communal open space along with generous ground floor private courtyards that enhance the amenity.
  - (iv) Apartments that look into the communal open spaces, are designed to have a planter edge to provide a soft contrast against the brickwork as a privacy buffer.
  - (v) The design of the building allows direct sightlines to the trees and provides opportunities to frame views from windows and balconies.
  - (vi) The high proportion of soft landscaping to roof areas effectively minimises stormwater runoff. Excess stormwater is captured and used to water the ground level landscaping.
  - (vii) Plant species have been selected to suit the location and climate, maximising the use of native species.

- (f) Principle 6: Amenity
  - (i) Access to daylight for the general amenity of all apartments. While driven by the existing street orientations, the location and design of the apartments maximises daylight access, minimising apartment depth where possible.
  - (ii) Public space within the buildings with all lobbies naturally ventilated and lit.
  - (iii) Communal landscaped spaces have been provided for the residents.
  - (iv) The development contributes to the general public amenity at ground floor level through the activation of frontages via lobby spaces, access and balcony orientation.
  - (v) Provision of open space amenity.
- (g) Principle 7: Safety
  - (i) Principle building entrances are clearly identifiable and allow for passive surveillance.
  - (ii) Clear sightlines from the building entry to the rear connections into the communal open spaces.
  - (iii) The bike store's location on the ground floor and close proximity to the entry, ensuring the space is always visible and reduces the burden of typically passing through basements, multiple doorways and below ground levels.
  - (iv) Building entrances have secure access points with video intercom.
  - (v) Security access in the form of swipe cards and remote controllers will be provided.
  - (vi) Entries will be well lit.
  - (vii) Increased pedestrian traffic will result from this development. This will improve passive surveillance.
- (h) Principle 8: Housing Diversity and Social Interaction
  - (i) The proposal offers a mix of apartments ranging from studios to 1 Beds and 2 Beds, with generous balcony sizes and well-scaled communal open spaces for casual encounters and opportunities for the community to come together.
  - (ii) In a broader context, this project offers a positive opportunity to assist with social housing demand, providing activity in an emerging area that has good access to public transport.
- (i) Principle 9: Aesthetics
  - (i) Proposed colours are those which are found naturally rather than primary colours, ensuring that the building sits comfortably within the urban scape.

- (ii) Careful articulation of the building form has been adopted to reduce the perceived bulk of the building.
- (iii) The use of 'natural' materials which require minimal maintenance.
- (iv) Robust materials which are long lasting and weather naturally.
- (v) When used, applied colours which are found naturally rather than primary colours.
- (vi) The use of darker recessive colours so that the building is not 'shouting' to the surrounding context.
- (vii) Extensive use of landscaping elements including a green roof has been proposed and screening devices.

42. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls.

43. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	No, but assessed as acceptable	The proposal has a building depth of between 10m-26m. The majority of the building form has a building depth of 18m or less and the part of the built from with a building depth of 26m includes corner units with high levels of daylight access. The proposal has been designed to ensure adequate levels of natural ventilation, cross ventilation, and daylight have been provided.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	Yes	There is 16m of building separation between the site and the residential terraces located on the opposite side of Bellevue Street, and 12m of building separation between the site and buildings on the opposite side of Cardigan Street.

<b>3D Communal and Public Open Space</b>	<b>Compliance</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	No, but assessed as acceptable	Communal open space of 17% (285sqm) is proposed. The non-compliance is acceptable given the access to Wentworth Park across the road, and as the provision of communal open space at roof level would exceed the height limit and unreasonably impact upon City skyline views to neighbours.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The north-western communal open space achieves substantial direct solar access for 5 hours between 9am and 2pm whilst the south-western communal open space achieves a smaller amount of direct solar access between 2pm and 3pm.

<b>3E Deep Soil Zones</b>	<b>Compliance</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	A deep soil area of 17% (285sqm) is provided.

<b>3F Visual Privacy</b>	<b>Compliance</b>	<b>Comment</b>
Up to four storeys (12 metres): <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>	Yes	Design modification conditions are recommended to ensure appropriate levels of privacy are maintained at corners between different elevations of the building and at ground level. The conditions ensure that the adequate details of the privacy screen louvres are provided.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Bedrooms, living spaces and habitable rooms have been separated from gallery access.



<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	81% (35/43) achieve a minimum of 2 hours of direct sunlight at midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	No, but assessed as acceptable	18.6% (8/43) of apartments receive no direct sunlight at midwinter. The proposal was amended to maximise cross ventilation through the provision of clerestory skylights to upper-level apartments. Therefore, the minor non-compliance is acceptable.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	60.4% (26/43) of apartments are naturally cross ventilated. The proposal was amended to maximise cross ventilation through the provision of clerestory skylights to upper-level apartments.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Cross-through apartments are a maximum of 16m in depth.

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	2.7m floor to ceiling heights are provided.

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
Minimum unit sizes: <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> </ul>	Yes	Studios range from 38sqm to 40sqm. One-bedroom units range from 50sqm to 65sqm

4D Apartment Size and Layout	Compliance	Comment
<ul style="list-style-type: none"> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul>		Two-bedroom units range from 70sqm to 80sqm.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	Every habitable room has a window of 10% or greater of the floor area of the room.
Habitable room depths are to be no more than 2.5 x the ceiling height.	No, but assessed as acceptable	<p>Floor to ceiling heights are 2.7m high, and some apartments have a depth of more than 6.75m (2.5 x 2.7m).</p> <p>All bedrooms have a compliant depth.</p> <p>Due to the open plan nature of the proposed living/dining rooms 21/43 apartments exceed the habitable room depth as follows:</p> <p>G.03 (8m), G.08 (8.9m), 1.02 (6.9m), 1.03 (8.8m) 1.04 (8.5m), 1.05 (7.6m), 1.06 (7.9m), 1.09 (8m), 1.10 (8.9m), 2.02 (6.9m), 2.03 (8.8m) 2.04 (8.5m), 2.05 (7.6m), 2.06 (7.9m), 2.10 (8.9m), 3.02 (6.9m), 3.03 (8.8m) 3.04 (8.5m), 3.05 (7.6m), 3.06 (7.9m), 3.10 (8.9m)</p> <p>Each of these apartments achieves other ADG requirements relating to apartment and room size and width, floor to ceiling heights and they all achieve sufficient amenity overall. Therefore the non-compliance is acceptable.</p>
8m maximum depth for open plan layouts.	No, but assessed as acceptable	<p>10/43 apartments exceed the maximum depth as follows:</p> <p>G.08 (8.9m), 1.03 (8.8m) 1.04 (8.5m), 1.10 (8.9m), 2.03 (8.8m) 2.04 (8.5m), 2.10 (8.9m), 3.03 (8.8m) 3.04 (8.5m), 3.10 (8.9m)</p> <p>As discussed above, each of these apartments achieve other ADG requirements relating to apartment and room size and width, floor to ceiling heights and they all achieve sufficient</p>

4D Apartment Size and Layout	Compliance	Comment
		amenity overall. Therefore the non-compliance is acceptable.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All bedrooms are greater than 9sqm with master bedrooms being greater than 10sqm.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Yes	The living room widths of 3.6m and 4m is achieved.
4m minimum width for cross over and cross through apartments.	Yes	Each cross through apartment has a minimum width of 4m.

4E Private Open Space and Balconies	Compliance	Comment
Studio apartments are to have a minimum balcony area of 4m <sup>2</sup> with a minimum depth of 1m.  One bed apartments are to have a minimum balcony area of 8m <sup>2</sup> with a minimum depth of 2m.  Two bed apartments are to have a minimum balcony area of 10m <sup>2</sup> with a minimum depth of 2m.  Three bed apartments are to have a minimum balcony area of 12m <sup>2</sup> with a minimum depth of 2.4m.	Yes	Studios have private open space ranging from 8sqm to 14sqm.  One-bedroom units have private open space ranging from 8sqm to 15sqm.  Two-bedroom units have private open space ranging from 11sqm to 24sqm  All balconies achieve the minimum depth.  8 of the apartments that face the rail line have been provided with wintergardens.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	No, but assessed as acceptable	Private open space for apartments on ground level ranges from 8sqm to 15sqm.  The non-compliance is acceptable as all private open space areas open directly from living spaces and as the opportunity for larger ground level private open space areas is inhibited by the provision of communal open space for all residents of the building.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	There are a maximum of 6 apartments of a circulation core.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No primary living room or bedroom windows open directly onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Daylight and natural ventilation are provided to all common circulation spaces.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> </ul>	Yes	Sufficient storage space is provided within each apartment.

4G Storage	Compliance	Comment
<ul style="list-style-type: none"> <li>3 bed: 10m<sup>3</sup></li> </ul> (Minimum 50% storage area located within unit)		

4J Noise and Pollution	Compliance	Comment
The impacts of external noise and pollution are to be minimised through careful siting and layout of buildings	Yes	The proposal has been designed to orientate the majority of units away from the noise source of the rail line. Wintergardens have been provided to 8 apartments to mitigate noise transmission.

### State Environmental Planning Policy (Housing) 2021

44. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

### Chapter 2 Affordable Housing

#### Part 2 Development for affordable housing

#### Part 2 Division 1: In-fill affordable housing

#### Clause 16 - Development to which Division applies

45. The division applies to the proposed development because:
- The proposal is permissible in the R1 General Residential zone;
  - In excess of 20% of the GFA will be used for the purposes of affordable housing;
  - The site is located within an accessible area being within 400m walking distance to the public entrance to a light rail station, being Glebe Light Rail station.

#### Clause 17 - Floor space ratio

46. The maximum floor space ratio for development is the maximum floor space ratio for residential accommodation on the land, being 1.75:1 under the Sydney LEP 2012, plus an additional floor space ratio of 0.5:1 as at least 50% of the gross floor area of the building will be used for affordable housing. Therefore the maximum floor space ratio for the development is 2.25:1. The proposal is compliant, with a proposed floor space ratio of 1.85:1.

**Clause 18 - Non-discretionary development standards**

47. The object of this section is to identify development standards for particular matters relating to development for the purposes of in-fill affordable housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
48. An assessment of the non-discretionary development standards is outlined in the following table:

Provision	Compliance	Comment
(2)(a) a minimum site area of 450sqm	Yes	The development satisfies this requirement as the site area is 1,633sqm.
(2)(b) for a development application made by a social housing provider—at least 35 sqm of landscaped area per dwelling	No	<p>There are 43 dwellings provided and therefore the development standard is landscaped area of 1,505sqm is to be provided. The application provides a landscape area of 398sqm which represents a 73.5% variation to the development standard.</p> <p>A request to vary the Landscaped area development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
(2)(d) a deep soil zone on at least 15% of the site area	Yes	The development satisfies this requirement as a deep soil area of 17% (285sqm) has been provided.
(2)(e) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter	No	<p>There are 43 dwellings and 70% is 30.1 dwellings.</p> <p>15 dwellings (35%) receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, which represents a 50% variation to the development standard.</p> <p>A request to vary the Solar Access development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
(2)(f) for a development application made by a social housing provider for	No	There are 43 dwellings proposed with 33 one-bedroom and 10 two-bedroom

Provision	Compliance	Comment
<p>development on land in an accessible area -</p> <p>(i) for each dwelling containing 1 bedroom - at least 0.4 parking spaces, or</p> <p>(ii) for each dwelling containing 2 bedrooms - at least 0.5 parking spaces, or</p> <p>(iii) for each dwelling containing at least 3 bedrooms - at least 1 parking space</p>		<p>dwellings. Therefore the development standard is 18.2.</p> <p>No parking spaces are provided which represents a 100% variation to the development standard.</p> <p>A request to vary the Parking Spaces development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
<p>(2)(h) for development for the purposes of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment</p>	Yes	<p>The development satisfied this requirement as it provides the minimum internal area specified in the Apartment Design Guide for each type of apartment.</p>

### Clause 19 - Design requirements

49. The design is consistent with the desirable elements of the character of the local area.

### Clause 20 - Continued application of SEPP 65

50. An assessment of the proposal against SEPP 65 - Design Quality of Residential Apartment Development has been undertaken above. The proposal is satisfactory with respect of SEPP 65.

### Clause 21 - Must be used for affordable housing for at least 15 years

51. This clause does not apply to development on land owned by a relevant authority or to a development application made by, or on behalf of, a public authority. The development application is by Land and Housing Corporation and therefore the clause does not apply.

### Clause 22 - Subdivision permitted with consent

52. The provisions of this clause permit the strata subdivision of the development. Subdivision is not proposed as part of this application. The proposal is satisfactory in this regard.

### State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

53. A BASIX Certificate has been submitted with the development application.

54. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

55. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

**Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network****Clause 2.48 Determination of development applications – other development**

56. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.
57. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised subject to conditions.

**Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors****Clause 2.97 – Development adjacent to rail corridors**

58. The application is adjacent to the light rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

**Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017**

59. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
60. The proposed removal of eleven trees is supported as discussed under section 3.5 of the Sydney DCP 2012 below. The removal of trees will not adversely impact upon the heritage significance of the subject site.

**Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments**

61. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.
62. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.



## Local Environmental Plans

### Sydney Local Environmental Plan 2012

63. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the R1 General Residential zone. The proposed development is defined as affordable housing and is permissible with consent in the zone. The proposal meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 12m is permitted.</p> <p>A height of 13.2m (parapet) 13.35m (lift overrun), and 14.2m (clerestory skylights) is proposed.</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1.75:1:1 under Clause 4.4. Additionally, a bonus floor space ratio of 0.5:1 is permitted under the Housing SEPP 2021 which allows for a total floor space ratio of 2.25:1 or Gross Floor Area of 3674sqm.</p> <p>A floor space ratio of 1.85:1 or 3,017sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

Provision	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3 of the LEP and under Clause 18 of the Housing SEPP 2021. Clause 4.6 variation requests have been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located within the Lyndhurst heritage conservation area (C31).</p> <p>The site is adjacent to a state heritage items Glebe and Wentworth Park Railway Viaducts, Glebe (Bellevue Street) underbridge and Glebe (Wentworth Park Road) underbridge and local heritage item (I816) being street trees on Wentworth Park Road.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area and heritage items.</p>
5.21 Flood Planning	Yes	<p>The site is located within a flood planning area.</p> <p>The proposal has been reviewed by the City's Public Domain Unit and is acceptable in relation to flood behaviour, safe occupation and evacuation, risk to life, and impact on the environment, subject to recommended conditions.</p>

#### Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Yes	The proposed development is of a high standard and uses materials and detailing which are compatible with the

Provision	Compliance	Comment
		<p>existing development along the street and will contribute positively to the character of the area.</p> <p>The form and external appearance of the proposed development will improve the quality and amenity of the public domain.</p> <p>The proposed development will not detrimentally impact on view corridors, as discussed further under the Discussion heading below.</p> <p>The development addresses heritage and streetscape constraints and provides appropriate bulk, massing and modulation and street frontage heights with integrated landscape design.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The development therefore achieves design excellence.</p>

### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	<p>A maximum of 27 car parking spaces are permitted.</p> <p>The proposed development includes no car parking spaces and complies with the relevant development standards.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The proposed development is for purposes of residential accommodation that is used to provide affordable housing or public housing, which is a development type that is not subject to a

Provision	Compliance	Comment
		Section 7.13 affordable housing contribution.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on class 5 land and is 2.5m of an adjoining class. An Acid Sulfate Soils Management Plan was submitted, and a condition is recommended that the recommendations of the report be implemented.
7.19 Demolition must not result in long term adverse visual impact	Yes	The land will be comprehensively redeveloped under the development consent (if granted) and conditions are recommended to ensure adequate measures will be taken to mitigate any adverse visual impacts as a result of demolition with regard to the streetscape.

## Development Control Plans

### Sydney Development Control Plan 2012

64. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

#### Section 2 – Locality Statements

65. The site is located within the St Phillips locality. The proposed development is in keeping with the unique character and the design principles of the St Phillips locality, including to maintain the visual prominence of the tree canopy, and retaining vertically proportional façade rhythm.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1.5 Public Art	Yes	<p>A Preliminary Public Art Plan was submitted which outlines options of public art to be integrated into the development.</p> <p>A condition is recommended requiring public art to be provided in accordance with the City of Sydney Guidelines for Public Art in Private Development.</p>

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	<p>The proposed building has been designed to positively address the site and maximise the number of entries and include high quality finishes and public art to enhance the public domain.</p> <p>The interface between the development and the public domain is attractive, comfortable, safe, functional and accessible for all.</p>
3.5 Urban Ecology	Yes	<p>The proposal necessitates the removal of eleven trees from within the site. Of these, three are identified as being mature trees. The applicant was requested to investigate options to retain one or more trees however an alternative design was unable to both retain trees and achieve the same yield of social housing.</p> <p>To mitigate the impact of the loss of trees, replacement planting is proposed. The DCP requires that at least 15% canopy coverage of a site within 10 years from the completion of the development. In accordance with the DCP, the site will provide 23% canopy coverage. A design modification condition is recommended to ensure that the design maximises the soil volume available to 3 proposed trees along the Wentworth Park Road frontage.</p> <p>Trees located adjacent to the site and street trees are to be retained and conditions of consent have been recommended requiring that these trees are protected throughout construction and development. A design modification condition is recommended to ensure that pier and beam construction to building footings and boundary fencing within the Tree Protection Zone (TPZ) of Tree 5.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Conditioned to comply	The site is identified as being on flood prone land. A site-specific flood study was provided, and Council's Public

Provision	Compliance	Comment
		<p>Domain unit have advised that the proposal is satisfactory with regard to flooding.</p> <p>Council's Public Domain team have advised that the stormwater information submitted with the application is incomplete and therefore a deferred commencement condition is recommended.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to condition of consent relating to lot consolidation.
3.9.1 Heritage Impact Statements	Yes	<p>A heritage impact statement was submitted with the development application.</p> <p>The DCP outlines that development consent must not be granted for demolition of buildings older than 50 years old unless a heritage impact statement has been considered. The existing building is less than 50 years old and is not protected by heritage controls under the DCP.</p>
3.9.6 Heritage conservation areas	Yes	The proposal has been designed as a suitable infill building in the heritage conservation area and Council's Heritage Specialist has not objected to the proposal.
3.9.8 Neutral and appropriate infill buildings	Yes	<p>The DCP requires that demolition of neutral buildings only be considered where it can be demonstrated that restoration of the building is not reasonable, and that the replacement building will not compromise the heritage significance of the heritage conservation area.</p> <p>The demolition of the existing building will result in a significant increase in the number of social housing dwellings on site, with an increase from 17 to 43 dwellings. Therefore the restoration of the existing building is not reasonable.</p>

Provision	Compliance	Comment
		The replacement building is an appropriate infill building and will not compromise the heritage significance of the heritage conservation area.
3.9.11 Conservation of public domain features in heritage conservation areas	Yes	The DCP requires sandstone retaining walls to be retained.  Conditions are recommended relating to the protection of the sandstone retaining wall at the rear of the site. This wall supports Bellevue Street. The conditions include a deferred commencement condition requiring structural analysis of the wall and formation of controls for vibration monitoring during construction.
3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas	Yes	Appropriate conditions are recommended to ensure that the proposed excavation will not impact upon the heritage conservation and adjoining walls.
3.11 Transport and Parking	Yes	The development does not provide any car parking on site.  The proposal provides for a total of 50 bicycle spaces in accordance with the DCP.
3.12 Accessible Design	Yes	The DCP requires 15% of total dwellings to be adaptable. 16.2% of dwellings (7) are adaptable.  An accessible path of travel is provided to all communal areas.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

## Section 4 – Development Types

## 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	No	<p>The site is permitted a maximum building height of 3 storeys.</p> <p>The proposed development is 4 storeys in height, however the upper level has been designed with a recessive design that satisfies the objective of the control to reinforce the existing or future neighbourhood character.</p>
4.2.2 Building setbacks	Yes	The proposed setbacks are consistent with adjoining buildings.
4.2.3 Amenity		
4.2.3.11 Acoustic privacy	Yes	A Noise Impact Assessment has been submitted with the application. The Assessment concludes that the proposed acoustic constructions of the buildings' facade including external windows will ensure that future internal noise levels comply with the relevant noise levels of the Australian Standard and the Sydney DCP 2012
4.2.3.12 Flexible housing and dwelling mix	No	<p>The following mix of dwellings is proposed (including the terrace dwellings):</p> <p>Studio - 4 (0.9%)</p> <p>One-bedroom - 29 (67.4%)</p> <p>Two-bedroom - 10 (23.2%)</p> <p>Three-bedroom - 0 (0%)</p> <p>While the proposed mix is inconsistent with the DCP provisions, LAHC has advised this mix reflects the social housing needs for the area. On this basis, the proposed mix is considered acceptable.</p>



Provision	Compliance	Comment
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
4.2.8 Letterboxes	Yes	A condition is recommended relating to the provision of letterboxes.

## Discussion

### Clause 4.6 Request to Vary a Development Standard - Height

66. The site is subject to a maximum height of buildings control of 12m. The proposed development has a height of 13.2m (parapet) 13.35m (lift overrun), and 14.2m (clerestory skylights).
67. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- a. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - b. That there are sufficient environmental planning grounds to justify contravening the standard;
  - c. The proposed development will be consistent with the objectives of the zone; and
  - d. The proposed development will be consistent with the objectives of the standard.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

68. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) the variation will have negligible impact on the amenity of the surrounding area and will not impact on the ability of the proposal to achieve the relevant objectives of the Sydney LEP as set out in Clause 4.3 – Height of Buildings and for the R1 General Residential zone which applies to the site.
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) The proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the Housing SEPP to facilitate increased affordable housing and to accommodate the 1% AEP flood level requirements.
- (ii) The building height non-compliance is required to accommodate the required flood planning levels which is subject to the 1% AEP flood event. The level established to comply with flood level requirements is RL +2.77 +0.5m (RL + 3.27). The proposal includes the required flood planning levels, which results in the need for additional building height, particularly at the front where the site slopes to Wentworth Park Road.
- (iii) The proposed height exceedance is required to accommodate clerestory skylights as recommended in the RFI received from Council in June 2023 to improve solar access and cross ventilation to upper-level units. A minor height exceedance is required to accommodate the skylights; however, the extent of variation is limited to 3% of the total roof area and does not result in any significant impacts to surrounding properties.
- (iv) The proposed skylights will achieve better outcomes including improved cross ventilation and amenity, while not resulting in any significant impacts to surrounding properties. The skylights have been carefully designed and located to minimise any potential impacts, such as views and overshadowing.
- (v) A minor height increase is also required to provide sufficient allowance to accommodate the lift overrun. The minor height exceedance for the lift overrun is no greater than 1.35m. The minor increase does not result in any impacts.
- (vi) The proposed floorspace is below the maximum allowable FSR available. The bonus floorspace is appropriately accommodated through a minor variation to height, rather than accommodating the additional floorspace within the 12m height limit which would result in increased bulk, scale, and amenity impacts. The proposal also appropriately responds to the required flood planning levels, which necessitates the need for additional height to accommodate the higher ground floor levels.
- (vii) The proposal provides significant public benefit in the form of new and increased affordable housing. Despite the non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties, heritage conservation area, or public domain.
- (viii) The height exceedance generally does not exceed more than 10% (1.2m) except in limited circumstances where the building height non-compliance is 2.2m (18.3%) for a small part of the building. This exceedance is limited to 3% of the roof area and is required to accommodate the proposed clerestory skylights in the revised proposal.

- (ix) The building height non-compliance is justified by the provision of new and increased affordable housing (critical social infrastructure), the need to respond to the required flood planning levels and providing better outcomes through improved amenity for residents. The minor building height non-compliance provides for an additional 11 affordable housing apartments on the upper level and supports increased affordable housing supply in the local area.
  - (x) The building height non-compliance will not result in any adverse amenity impacts. From a visual and streetscape point of view the minor extent of the variation means that the impacts would be negligible from the public domain or when viewed from surrounding properties.
- (c) The proposed development will be consistent with the objectives of the zone;
- (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site). The building height non-compliance will support additional affordable housing supply without resulting in any significant additional amenity impacts to surrounding properties.
  - (ii) The proposal will enhance the variety of housing types providing increased affordable housing.
  - (iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.
- (d) The proposed development will be consistent with the objectives of the standard;
- (i) The building height non-compliance is compatible with the surrounding built form context. The building design seeks to respond to and enhance the local character through high quality building design and use of materials consistent with the local character. The proposed building provides terrace style dwellings along Wentworth Park Road and provides staggered building setbacks to reduce bulk and scale and align with surrounding developments.
  - (ii) The proposed development provides an appropriate height transition to heritage items and does not impact the significance of the heritage conservation area. The proposed building is appropriately scaled and setback to reduce bulk and scale and minimise impacts.
  - (iii) The building height non-compliance will not impact on significant views and promotes view sharing. The proposed building has been designed to minimise impacts to views. Views to Wentworth Park Road Underbridge and viaduct, Wentworth Park, Sydney CBD (from Bellevue Street) and views within the Lyndhurst Conservation Area will be retained.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

69. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

70. A detailed discussion with regard to the objectives of the height of buildings development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

Does the written request adequately address those issues at clause 4.6(3)(b)?

71. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

72. The proposed development will be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the objectives for development within the R1 General zone.

Conclusion

73. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R1 General Residential zone.

#### **Clause 4.6 Request to Vary a Development Standard - Landscaped Area**

74. Clause 18(2)(b) of SEPP (Housing) 2021 provides a non-discretionary development standard for a development application made by a social housing provider - at least 35 sqm of landscaped area per dwelling.
75. There are 43 dwellings provided and therefore the development standard is landscaped area of 1,505sqm is to be provided. The application provides a landscape area of 398sqm which represents a 73.5% variation to the development standard.
76. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;

- (b) That there are sufficient environmental planning grounds to justify contravening the standard;
- (c) The proposed development will be consistent with the objectives of the zone; and
- (d) The proposed development will be consistent with the objectives of the standard.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

77. The applicant seeks to justify the contravention of the landscaped area development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.
  - (ii) The objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater* and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the Guide to Varying Development Standards.
  - (iii) The variation to the non-discretionary development standard in Clause 18 (2) (b) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The provision of landscaped area is considered appropriate as it delivers significant green space and landscaping while balancing the need for renewal to provide more affordable housing.
  - (ii) The proposal provides 398sqm of landscaped area, including generous front landscaped setbacks, communal open space, compliant deep soil at 18% and 23% tree canopy cover, raised planters and landscaped terraces. The proposal delivers significant landscaped area and a high-quality landscape outcome.
  - (iii) The proposal includes a green roof with 733sqm of native landscaping provided at roof level.
  - (iv) The Landscape Plans demonstrate the proposal complies with the ADG and Sydney DCP requirements which include:
    - (i) A minimum of 10% of the site area as deep soil
    - (ii) At least 15% of the total site area as canopy cover within 10 years of development

- (v) The proposal provides for a 18% deep soil (in accordance with DCP spatial requirements) while also providing additional deep soils areas in the front setbacks to total 23% deep soil across the site.
  - (vi) The proposal provides for the retention of high value street trees and new tree plantings which will provide enhanced greening on site and in surrounding streets.
  - (vii) The site is located close to extensive open space and recreation areas including Wentworth Park which is located opposite which provides access to extensive green space and regional level open space.
- (c) The proposed development will be consistent with the objectives of the zone;
- (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
  - (ii) The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
  - (iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.
- (d) The proposed development will be consistent with the objectives of the standard, contained within Clause 3 Principles of Policy;
- (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
  - (ii) The proposal will enhance the variety of housing types providing increased affordable housing. The proposal is for a residential flat building to be used for the purpose of affordable housing.
  - (iii) The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.
  - (iv) The proposal provides for 398sqm of landscaped areas and complies with the minimum deep soil and tree canopy targets in the Sydney DCP and ADG. The proposal provides large communal open space areas at the rear which will provide excellent amenity and outlook for residents.
  - (v) The proposal is opposite Wentworth Park providing access to regional open space within easy walking distance.
  - (vi) The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.
  - (vii) The site is extremely well serviced and in area and has excellent access to a range of social services and infrastructure.

- (viii) The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road.
- (ix) The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.
- (x) The proposal provides a total of 18% deep soil (23% when front setbacks included) and 23% tree canopy cover within the site boundary.
- (xi) The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form and is compatible with surrounding built form character.
- (xii) The proposal will deliver significant public benefit in the form of renewed and increased supply of affordable housing.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

78. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

79. A detailed discussion with regard to Clause 3 Principles of Policy of SEPP (Housing) 2021 has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

Does the written request adequately address those issues at clause 4.6(3)(b)?

80. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

81. The proposed development will be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the objectives for development within the R1 General zone.

## Conclusion

82. For the reasons provided above the requested variation to the Landscaped Area development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 3 Principles of Policy of SEPP (Housing) 2021 and the R1 General Residential zone.

**Clause 4.6 Request to Vary a Development Standard - Solar Access**

83. Clause 18(2)(e) of the SEPP (Housing) 2021 provides a non-discretionary development standard that living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.
84. There are 43 dwellings and 70% is 30.1 dwellings. 15 dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, which represents a 50% variation to the development standard.
85. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard;
  - (c) The proposed development will be consistent with the objectives of the zone; and
  - (d) The proposed development will be consistent with the objectives of the standard.

## Applicant's Written Request - Clause 4.6(3)(a) and (b)

86. The applicant seeks to justify the contravention of the solar access development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.
    - (ii) The objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater* and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the Guide to Varying Development Standards.
    - (iii) The variation to the non-discretionary development standard in Clause 18 (2) (e) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.



- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The proposal has been designed to comply with solar access criteria in the ADG, which requires at least 2 hours of solar access to 70% of apartments in mid-winter. The proposal achieves excellent solar access, with 81% of all apartments receiving at least 2 hours of solar access in mid-winter.
  - (ii) The proposal has been designed to ensure the number of apartments oriented to the north and north-west is maximised, within only a limited number of south facing apartments at the rear. Apartments at the rear have been designed with outlook to communal open space and landscaped areas to maximise daylight access and amenity.
- (c) The proposed development will be consistent with the objectives of the zone;
  - (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
  - (ii) The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
  - (iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.
- (d) The proposed development will be consistent with the objectives of the standard, contained within Clause 3 Principles of Policy;
  - (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
  - (ii) The proposal will enhance the variety of housing types providing increased affordable housing. The proposal is for a residential flat building to be used for the purpose of affordable housing.
  - (iii) The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.
  - (iv) The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.
  - (v) The proposal achieves at least 2 hours solar access to 81% of apartments in mid-winter, exceeding the requirements in the ADG.
  - (vi) The site is extremely well serviced and has excellent access to a range of social services and infrastructure.
  - (vii) The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk on Pyrmont Bridge Road.

- (viii) The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.
- (ix) The proposal provides a high level of amenity, with high levels of solar access and natural ventilation to apartments, and generous deep soil and tree canopy cover provided.
- (x) The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form and is compatible with surrounding built form character.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

87. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

88. A detailed discussion with regard to Clause 3 Principles of Policy of SEPP (Housing) 2021 has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

Does the written request adequately address those issues at clause 4.6(3)(b)?

89. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

90. The proposed development will be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the objectives for development within the R1 General zone.

Conclusion

91. For the reasons provided above the requested variation to the Solar Access development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the R1 General Residential zone.

**Clause 4.6 Request to Vary a Development Standard - Parking Spaces**

92. Clause 18(2)(f) of SEPP (Housing) 2021 provides a development standard for a development application made by a social housing provider for development on land in an accessible area -
- (i) for each dwelling containing 1 bedroom - at least 0.4 parking spaces, or
  - (ii) for each dwelling containing 2 bedrooms - at least 0.5 parking spaces, or
  - (iii) for each dwelling containing at least 3 bedrooms - at least 1 parking space
93. There are 43 dwellings proposed with 33 one-bedroom and 10 two-bedroom dwellings, therefore the development standard is 18.2. No parking spaces are provided which represents a 100% variation to the development standard.
94. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard;
  - (c) The proposed development will be consistent with the objectives of the zone; and
  - (d) The proposed development will be consistent with the objectives of the standard.

**Applicant's Written Request - Clause 4.6(3)(a) and (b)**

95. The applicant seeks to justify the contravention of parking spaces development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.
    - (ii) The objectives are achieved notwithstanding noncompliance. This is consistent with the five-part test established in *Wehbe vs Pittwater* and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the Guide to Varying Development Standards.
    - (iii) The variation to the non-discretionary development standard in Clause 18 (2) (f) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) No car parking is proposed to be provided which is consistent with maximum car parking rates in the Sydney LEP as well as NSW LAHCs operational requirements.
  - (ii) If the parking rates in Clause 18 of the Housing SEPP were complied with, the proposal would need to provide 18 car parking spaces. This would impact the amount of new housing that could be provided, add significant cost, and impact the design and layout of the proposal to accommodate parking. It would also likely impact high value street trees along Wentworth Park Road to accommodate basement entry.
  - (iii) The proposal includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.
  - (iv) The Traffic and Parking Report prepared to support the development application outlines the suitability of providing no car parking, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.
- (c) The proposed development will be consistent with the objectives of the zone;
- (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
  - (ii) The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
  - (iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.
- (d) The proposed development will be consistent with the objectives of the standard, contained within Clause 3 Principles of Policy;
- (i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
  - (ii) The proposal will enhance the variety of housing types providing increased affordable housing. The proposal is for a residential flat building to be used for the purpose of affordable housing.
  - (iii) The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.
  - (iv) The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.
  - (v) The proposed apartments are appropriately designed to meet tenants needs and includes an internal lift for better accessibility, and in an area with good access to services.

- (vi) The site is extremely well serviced and has excellent access to a range of social services and infrastructure.
- (vii) The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road.
- (viii) The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.
- (ix) The proposal proposes no on-site car parking which will result in positive environmental outcomes. The proposal provides 44 resident bike parking spaces, and is located close to public transport, promoting active and sustainable travel modes.
- (x) The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form and is compatible with surrounding built form character.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

96. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

97. A detailed discussion with regard to Clause 3 Principles of Policy of SEPP (Housing) 2021 has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

Does the written request adequately address those issues at clause 4.6(3)(b)?

98. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

99. The proposed development will be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the objectives for development within the R1 General zone.

## Conclusion

100. For the reasons provided above the requested variation to the Parking Spaces development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the R1 General Residential zone.

**Design Advisory Panel Residential Subcommittee**

101. The proposal was referred to the City's independent Design Advisory Panel Residential Subcommittee (DAPRS) on 7 March 2023.

102. The recommendations of the Panel are outlined in the table below.

Design Advisory Panel Recommendations	Response
The increased net amount of social housing is supported by the Panel.	The support for the increase in social housing on site is noted.
<p>The removal of some viable trees and the non-compliances with landscape controls should be addressed. The proposed tree planting provision is unacceptable (18%). New medium to large trees should be provided to offset the substantial reduction in existing canopy (49%). An appropriate canopy cover and tree replacement strategy should be developed.</p> <p>Consideration should be given to including more trees in the front landscape setback. Plans should clearly annotate the proposed tree species.</p>	<p>The revised plans achieve an increase in canopy cover from 18% to 23%.</p> <p>This is an improvement of 5% canopy cover, and significantly exceeds the DCP requirement for new development to 'provide at least 15% canopy coverage of a site within 10 years from the completion of development'.</p> <p>The proposal includes an additional three new trees proposed in the front setback and one additional tree in the rear communal open space to increase canopy cover.</p>
<p>Further investigation into the retention of Tree 23 should be undertaken. The basement level, Apartments G.10, 1.11, 2.11 and 3.11 could be re-planned. It should be demonstrated that Tree 19 will need to be removed to repair/reconstruct the adjacent retaining wall.</p>	<p>The retention of Tree 19 and Tree 23 has been carefully explored and will result in significant loss of apartment yield which would be detrimental to the supply of new social housing in the area.</p> <p>Analysis undertaken by SJB demonstrates that the retention of Tree 19 or Tree 23 would have a significant impact on the apartment yield.</p> <p>The retention of Tree 19 would result in a reduced yield of 38 apartments – a reduction of 5 social housing apartments.</p> <p>The retention of Tree 23 would result in a reduced yield of 36 apartments – a reduction of 7 social housing apartments.</p>

Design Advisory Panel Recommendations	Response
	<p>The applicant submits that the proposal balances the retention of trees and enhanced tree canopy cover with the need to deliver increased social housing in an area of critical need. The current wait list for social housing exceeds 2,000 in the City of Sydney LGA. In this context, the tree loss is on balance, acceptable.</p>
<p>The proposal exceeds the LEP height control and the DCP storey control however the proposal does not appear to bring with it significant view loss or negative overshadowing impacts. Given the steepness of the site and the proposed green roof, the Panel considers the height exceedance to be acceptable. However, the inclusion of some solar panels should be investigated in a form that maintains the green roof and neighbours' views.</p>	<p>The support for the proposed height is noted.</p> <p>The applicant submits that the inclusion solar panels has been investigated, however, the amended proposal seeks to increase the area of green roof from 35% to 76%. The green roof will improve greening outcomes and provide enhanced amenity for neighbours.</p>
<p>A number of important ADG targets have not been met. Solar access, cross ventilation and separation for privacy should be improved, for example, clerestory skylights could increase solar access and cross ventilation.</p>	<p>The proposal was amended to provide clerestory skylights and the amended proposal achieves 81% of apartments achieving solar access for 2 hours at midwinter and 60.4% of apartments being cross ventilated, which is consistent with the ADG requirements.</p> <p>The proposed building separation is consistent with the design guidance of the ADG, however design modification conditions are recommended to maximise visual privacy between units at internal corners of the building and at ground level facing Wentworth Park Road and to the communal open space areas. The conditions ensure that adequate details of the privacy screen louvres are provided.</p>
<p>The amount of communal open space does not meet ADG compliance, however the Panel notes that occupants will have good access to Wentworth Park.</p>	<p>This comment is noted.</p>
<p>Window configurations to allow secure, weatherproof natural ventilation. Large awning windows do not perform well for cross-ventilation and sliding doors should</p>	<p>Window configurations have been revised to include a bay of awning windows into the bedroom glazing suite and remove 1x sliding panel to allow for secure, weatherproof natural ventilation to single aspect apartments.</p>

Design Advisory Panel Recommendations	Response
not be the only means of achieving natural ventilation for a habitable room	
The intersection of the internal common circulation areas be reorganised to provide clearer sightlines and better spatial configuration. Better provision of natural light for Lift 1 Lobby on the Ground Floor	The lobby design has been revised to allow extra light into the corridor and lobby area.
Relocate private stairs from the street to the entrance terraces of units G.01-04 so the paths to front doors do not pass directly in front of bedroom windows. Landscaped gardens to be amended at the same time to further improve privacy to ground floor bedrooms.	<p>The entry stair to G.01 does not pass in front of bedroom and no change is required to improve privacy.</p> <p>Entry stair and opening in facade to Unit G.02 cannot be amended due to proximity to substation chamber. However, the internal layout has been rearranged to position living area directly adjacent to stair to improve privacy.</p> <p>Layout of G.03 has been mirrored to position living area in front of stair.</p> <p>Entry stair of G.04 has been repositioned in front of living area.</p>
Air-conditioning units should not be placed on terraces or balconies	LAHC have advised that they do not provide air-conditioning as part of their developments.
Although plenums are not accounted for in cross-ventilation calculations Units 1.02 and 1.03, 1.06, 1.08 and 1.10 would benefit from some passive through-ventilation	Cross ventilation has been improved for the proposal through the inclusion of the proposed skylights and ceiling fans which are provided in all apartments to improve passive through-ventilation. The lobby is also naturally ventilated
Provide better privacy between balconies in the south-west corner	The revised plans provide additional privacy screening to ensure apartments at the rear do not overlook each other. Design modification conditions are recommended to require additional detail in relation to privacy screening.
Review Ground Floor privacy for units facing Communal Open Space	Ground floor privacy will be achieved through landscaping treatment and mounding in the area in front of the ground floor terraces to improve privacy between apartments and communal open space. Design modification conditions are recommended to require



Design Advisory Panel Recommendations	Response
	additional detail in relation to privacy screening.
<p>The waste room and substation locations are not optimal but are a result of site constraints including flooding and utilities access standards. However, the Panel queries if the internal ramp to the waste room is required given the external ramp is undercover.</p>	<p>The support for the waste room and substation locations are noted.</p> <p>The internal ramp within the waste room was deleted. The amended scheme is satisfactory.</p>
<p>The vertical rhythm strategy is persuasive but may be 'too much.' The Panel understands this is both a response to the traditional rhythm of nearby terrace houses and is a direct response to the required building setbacks for the building. Reducing the number of steps in the eastern facade may require a breach of the setback controls. A modest incursion in one or two instances to allow a single apartment to present as a single form may help. It may be that units 1.01/1.02 and 1.06/1.07 need to be an average line of best fit.</p>	<p>The applicant submits that the vertical rhythm of the proposal is designed to be in keeping with the vertical expression of the surrounding terrace housing typology, particularly the street along Bellevue Street. Reducing the quantity of 'stagers' removes the strength of the slender vertical proportions, while 'flattening' the elevation to visually make the massing appear wider.</p> <p>The current staggering layout provides a distinction from the private spaces (bedrooms) vs open spaces (living areas). Conceptually it adds to the pushing and pulling effect between the positive and negative elements of the massing.</p> <p>Additionally, the current stepping of setbacks carefully considers the interface of the street, existing tree canopies and sufficient clearance for the new proposed landscape canopies. This includes making spatial clearance for the London Plane tree (T05) at the street, as well as providing sufficient setback for the new Ivory Curl trees to establish a generous future canopy, without impeding on the façade of the building.</p> <p>Therefore the proposed vertical rhythm is considered acceptable.</p>
<p>The choice of brickwork for the top floor was discussed. The white brick element will possibly read as a fourth storey rather than a roof however this may be justified by considering the broader context.</p>	<p>The support for the proposed brickwork is noted.</p>

Design Advisory Panel Recommendations	Response
<p>A section through Unit 1.11 balcony and the adjoining parking area should be provided to show any privacy and security issues and how they can be resolved.</p>	<p>The revised plans include a metal louvres fence on the boundary to provide privacy and security to Unit 1.11.</p> <p>A section is provided of Unit 1.11 and the adjoining parking area which demonstrates privacy and security to Unit 1.11 is achieved.</p>
<p>The landscape sections do not show sufficient detail of the site boundaries including existing trees, soil levels and existing and proposed edges. This is critical, particularly adjacent to trees T16 and T11. Further detail should be provided including existing trees and soil levels, critical root zones, tree protection zones and all proposed works and proposed levels. The design response should show how expert arboricultural advice has informed the detailed design resolution.</p>	<p>Amended landscape plans have been submitted which provide additional detail of the site boundaries, soil levels and existing trees as requested.</p> <p>The amended landscape plans have been reviewed by Council's Landscape Assessment officer and are acceptable.</p>

103. The proposal, subject to conditions, achieves an appropriate design outcome that responds to the issues raised by the Panel and is recommended for deferred commencement approval on this basis.

#### **View Sharing**

104. A number of submissions raised concerns with the loss of views towards the skyline of the Sydney Central Business District.
105. The concerns relate to views from residential terraces located at 70 and 72 Bellevue Street. Due to the topography of the land Bellevue Street is elevated above the site.
106. The location of these properties is shown in the map extract reproduced in the figure provided below.



**Figure 31:** The subject site (shown in blue) and properties with objectors with view loss concerns (shown in red)



**Figure 32:** The neighbouring properties where view assessments were conducted

107. The proposal must satisfy the objectives of the building height control, including objective 4.3(1)(c) of the Sydney LEP 2012 which states "to promote the sharing of views".
108. It must also satisfy the design excellence provisions including Clause 6.21C(2)(c) of the Sydney LEP 2012 which states "whether the development detrimentally impacts on view corridors".
109. The applicant submitted a view impact assessment report to analyse the view sharing impacts of the proposal (reproduced at Attachment G).
110. The view impact assessment report has been reviewed by Council's model makers who have confirmed that the images provided within the report accurately model the impacts to views from these apartments.
111. A summary of the City's assessment of the impacts to the two dwellings is summarised in the table below:

Site	View impact assessment reference	View impact
70 Bellevue Street		
Balcony outside Living/Dining on Level 1	Viewpoint 01 Pages 5-8	No impact, the City skyline views are retained and expanded as a result of the proposal
Living/Dining on Level 1	Viewpoint 02 Pages 9-12	No impact, the City skyline views are retained and expanded as a result of the proposal
Bedroom on Level 2	Viewpoint 03 Pages 13-16	No impact, the City skyline views are retained and expanded as a result of the proposal
72 Bellevue Street		
Balcony outside Living/Dining on Level 1	Viewpoint 05 Pages 17-20	No impact, the City skyline views are retained and expanded as a result of the proposal
Living/Dining on Level 1	Viewpoint 06 Pages 21-24	No impact, the City skyline views are retained and expanded as a result of the proposal
Bedroom on Level 2	Viewpoint 07 Pages 25-28	No impact, the City skyline views are significantly obstructed by existing trees and expanded as a result of the proposal

Site	View impact assessment reference	View impact
External Terrace Deck on Ground Floor	Viewpoint 08 Pages 29-32	Partial impact, however the existing view is very obstructed by existing trees and is not an intact view of the city skyline.

112. Assessment of view impacts is undertaken based on the principles of view sharing established in *Tenacity Consulting v Warringah Council [2004]* NSWLEC 140 by the Land and Environment Court of New South Wales.

113. In the Tenacity case, Senior Commissioner Roseth notes that:

*The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.)*

114. To decide whether view sharing is reasonable or not, Senior Commissioner Roseth developed a four step assessment, which is summarised in part below:

- (a) The first step is the assessment of views to be affected. Water views are valued more highly than land views. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.
- (b) The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The expectation to retain side views is often unrealistic.
- (c) The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas.
- (d) The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them.

115. The City's assessment against the four steps for each property with a view impact is outlined below.

116. 70 Bellevue Street:

- (a) Views to be affected: Views of City skyline and Wentworth Park. This view is already obscured by existing trees between the subject site and the city and is a partial view not a whole view.
- (b) Part of property viewed from: Views are from Viewpoint 01, 02 and 03 which is the Level 1 balcony, Level 1 living/dining and Level 2 bedroom.
- (c) Extent of impact: The views to the City skyline are retained and expanded by the proposal, whilst the partial views of the Wentworth Park from Level 2 are removed.

- (d) Reasonableness: The only view impacted is a limited view to Wentworth Park from the Level 2 bedroom. The existing view to Wentworth Park is not a significant view and the impact to this view is considered reasonable, noting that the more desirable City skyline are retained. It is noted there is a loss of outlook to existing trees as a result of the proposal, however the impacts to outlook are not a matter to be considered under the Tenacity principle.



**Figure 33:** The existing view from the Level 1 balcony of 70 Bellevue Street



**Figure 34:** The impact on the view of Sydney skyline from this view point.



**Figure 35:** The existing view from the Level 2 bedroom of 70 Bellevue Street



**Figure 36:** The impact on the view of Sydney skyline from this view point.

117. 72 Bellevue Street:

- (a) Views to be affected: Views of City skyline. This view is already obscured by existing trees between the subject site and the city and is a partial view not a whole view.
- (b) Part of property viewed from: Views are from Viewpoint 04, 05 and 06 which is the Level 1 balcony, Level 1 living/dining and ground level front courtyard.
- (c) Extent of impact: The views to the City skyline are retained and expanded by the proposal when viewed from Level 1, and the limited views from ground level are obstructed by the proposal.
- (d) Reasonableness: The only view impacted is a limited view to a small part of the City skyline from the ground level terrace. This view is not a significant view and the impact to this view is considered reasonable, noting that the more desirable City skyline views from Level 1 are retained. It is noted that there is a loss of outlook to existing trees as a result of the proposal, however the impacts to outlook are not a matter to be considered under the Tenacity principle.





**Figure 37:** The existing view from balcony of Level 1 of 72 Bellevue Street



**Figure 38:** The impact on the view of Sydney skyline from this view point



**Figure 39:** The existing view from the ground level front courtyard of 72 Bellevue Street



**Figure 40:** The impact on the view of Sydney skyline from this view point.

## Consultation

### Internal Referrals

118. The application was discussed with Council's:

- (a) Building Services Unit;
- (b) Environmental Health Unit;
- (c) Heritage and Urban Design Unit;
- (d) Landscape Assessment Officers;
- (e) Public Domain Unit;
- (f) Safe City Unit;
- (g) Land Surveyor;
- (h) Transport and Access Unit;
- (i) Waste Management Unit.

119. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

### External Referrals

#### Ausgrid

120. Pursuant to Section 2.47 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

121. A response was received raising no objections to the proposed development, subject to conditions.

#### Transport for NSW

122. Pursuant to Section 2.99 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.

123. Concurrence was received on 27 April 2023. Conditions of consent were recommended which are included in the Notice of Determination.

### Advertising and Notification

124. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 14 February 2023 and 15 March 2023. A total of 27 unique submissions and 349 pro-forma submissions were received.

125. The amended proposal was re-notified for a period of 14 days between 21 August and 5 September. A total of 2 submissions were received.

126. The submissions raised the following issues:

- (a) **Issue:** Sydney and NSW are currently experiencing a housing crisis with more than 51,000 households on the waiting list. Demolishing existing public housing and rehousing current residents in other public homes will lengthen the wait time for applicants

**Response:** The proposal will result in an increase in the number of social housing dwellings from 17 to 43 and will result in an increase in supply of social housing.

- (b) **Issue:** The site houses many people, some of whom have lived there for over 30 years. The relocation process and uncertainty around it has caused significant disruption.

**Response:** The relocation of existing tenants has been planned by LAHC.

- (c) **Issue:** The existing building is only 35 years old is well built and could be refurbished for less cost than demolition. There is embodied carbon in the building and more carbon will be used to rebuild. The existing building should be retained and refurbished rather than demolished.

**Response:** The planning controls that apply to the site do not prevent or restrict the demolition of the existing building.

- (d) **Issue:** Height of the proposed development exceeds the planning regulations and will significantly block views. Inadequate Clause 4.6 request.

**Response:** As discussed above, the proposed height, the view sharing outcomes and the Clause 4.6 request are acceptable.

- (e) **Issue:** Privacy impacts due to windows from new apartments

**Response:** Adequate building separation is provided to surrounding sites to ensure that there are no unreasonable privacy impacts to surrounding developments.

- (f) **Issue:** Removal of trees and greenery

**Response:** The application includes the removal of 11 trees, and this includes the removal of 3 trees of medium retention value. Whilst there will be some impact from the loss of these trees, on balance, the tree removal and replacement tree planting is considered to be acceptable as it will enable the comprehensive redevelopment to increase the yield of social housing. The applicant explored options to retain one or more trees however it was not possible to achieve an alternate design that allowed for tree retention whilst achieving the same yield. The application will provide 23% canopy coverage which exceeds the 15% canopy coverage requirement of the Sydney DCP 2012.

- (g) **Issue:** Lack of parking and impact on local street parking

**Response:** The parking controls under the Sydney LEP 2012 are maximum controls and there is no requirement to provide parking on site. The site is located in close proximity to a number of public transport options and the provision of no parking is acceptable.

- (h) **Issue:** An alternative proposal prepared by Hector Abrahams Architects shows why the current proposal should be rejected.

**Response:** The assessment of this development application has been carried out to determine whether the application, as proposed by the landowner, will provide an appropriate planning outcome when assessed against the planning controls. The assessment concludes that the proposal is acceptable.

- (i) **Issue:** The cost of the development.

**Response:** The cost of the development incurred by the applicant is not a matter of consideration under the planning framework.

- (j) **Issue:** The proposal will reduce the supply of public housing while demolition and rebuilding takes place.

**Response:** This is not a matter for consideration under the planning framework.

- (k) **Issue:** The proposal is family unfriendly because its largest apartments have only two bedrooms

**Response:** LAHC have advised that the proposed unit mix reflects the demand for social housing.

- (l) **Issue:** Refurbishment and extension would result in equal yield for less cost

**Response:** The development application proposes the demolition of the existing building and substantial redevelopment, which has been assessed as acceptable under the planning controls.

- (m) **Issue:** Impact upon the heritage conservation area

**Response:** The proposal has been reviewed by Council's Heritage Specialist who has advised that the demolition of the existing building, which has a neutral contribution to the heritage conservation area, is acceptable, and that the proposal is an appropriate infill building within the heritage conservation area.

- (n) **Issue:** The proposal does not comply with the Sydney DCP 2012 or SEPP 65 in relation to views and context

**Response:** As outlined above, the proposal has been assessed as acceptable against the relevant planning controls including Sydney LEP 2012, Sydney DCP 2012, SEPP 65 and the SEPP (Housing) 2021.

- (o) **Issue:** Impacts during construction

**Response:** A number of conditions are recommended to ensure that impacts during construction are minimised.

- (p) **Issue:** Potential stormwater and flooding impacts

**Response:** The proposal has been designed to the appropriate flood levels. Conditions have been recommended in relation to stormwater, including a deferred commencement condition to ensure that the final stormwater design does not impact upon the existing stormwater network.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

127. The development is not subject to a Section 7.11 development contribution as it is a type of development, being affordable or social housing by a social housing provider, listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

128. As the development is development for the purposes of residential accommodation that is used to provide affordable housing or public housing, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

## Relevant Legislation

129. Environmental Planning and Assessment Act 1979.

## Conclusion

130. The development application seeks consent for demolition of existing buildings, tree removal, and construction of a four storey residential flat building for 43 affordable housing dwellings for use as social housing.
131. The development is a Crown development application with the land owner being the NSW Land and Housing Corporation.
132. The application was presented to the City's Design Advisory Panel Residential Subcommittee (DAPRS) who supported the increase in social housing dwellings, the proposed height and the materiality. A number of recommendations have been addressed via amended plans.
133. The proposed development is compliant with the permitted FSR control of 2.25:1 under the Sydney LEP 2012 of 1.75:1 and the Housing SEPP 2021 of 0.5:1. The proposal exceeds the 12m height of building development standard by 2.2m (18%). The applicant has submitted a clause 4.6 written request seeking to vary the development standard, and the clause 4.6 request is supported.
134. The applicant has submitted three clause 4.6 written requests seeking to vary development standards of the State Environmental Planning Policy (Housing) 2021 relating to landscaped area, solar access and parking spaces. The clause 4.6 requests are supported.

135. The proposal is generally compliant with SEPP 65 and the Apartment Design Guide (ADG). Overall, the proposal provides acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.
136. The proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that is considered to demonstrate design excellence.
137. The proposal is recommended for deferred commencement approval.
138. As the application is a Crown development application, the draft conditions were provided to Land and Housing Corporation, who have agreed to the recommended conditions.

**ANDREW THOMAS**

Executive Manager Planning and Development

Matthew Girvan, Area Coordinator